

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

United States of America,

Plaintiff,

v.

Case No. 22-cr-20221
Hon. George Caram Steeh

LeMarke Gates,

Defendant.

Stipulated Preliminary Order of Forfeiture

Plaintiff, by and through its undersigned attorney, together with the defendant, LeMarke Gates, by and through his attorney, Steven Fishman (collectively, “the Parties”), submit this Stipulated Preliminary Order of Forfeiture to the Court for immediate entry, and stipulate and agree to the following:

On April 25, 2022, an Information was filed charging the defendant in Count One with Possession with Intent to Distribute at least 500 Grams of Cocaine in violation of 21 U.S.C. §§ 841(a)(1) and 841(b)(1)(B)(ii)(II). (ECF No. 1).

The Information also contains forfeiture allegations providing

notice to defendant that upon conviction the United States will seek forfeiture of (1) any property, real or personal, constituting, or derived from, any proceeds obtained, directly or indirectly, as a result of the violation; and (2) any property, real or personal, used, or intended to be used, in any manner, to commit, or to facilitate the commission of, the violation. Such property includes, but is not limited to:

- a) \$7,511.21 in funds seized from JP Morgan Chase Checking Account #XXXXXX8010;
- b) JP Morgan Chase Bank, \$100,000.00 Cashier's Check #XXXXXX5545 attributable to five cashier's checks;
- c) Smith & Wesson SD9VE 9mm Pistol with Magazine Ammunition;
- d) Smith & Wesson M&P9 9mm Pistol with Magazine and Ammunition;
- e) Taurus PT-709 9mm Pistol with Magazine and Ammunition;
- f) Del-Ton Inc. DTI-15 5.56mm Rifle with Magazine and Ammunition; and
- g) Assorted Magazines and Ammunition.

(ECF No. 1, PageID.2-3).

On June 9, 2022, the defendant entered into a Rule 11 Plea Agreement (Rule 11) in which he agreed to plead guilty to Count One of the Information charging him with Possession with Intent to Distribute at least 500 Grams of Cocaine in violation of 21 U.S.C. §§ 841(a)(1) and 841(b)(1)(B)(ii)(II). (ECF No. 11).

In the Rule 11, the defendant agreed to forfeit to the United States, pursuant to 21 U.S.C. § 853(a), his interest in the following: (1) any property, real or personal, constituting, or derived from, any proceeds obtained, directly or indirectly, as a result of the violation of 21 U.S.C. §§ 841(a)(1) and (b)(1)(B)(ii)(II) as charged in Count One of the Information; and (2) any property, real or personal, used, or intended to be used, in any manner, to commit, or to facilitate the commission of the violation. Such property includes but is not limited to:

- a) \$7,511.21 in funds seized from JP Morgan Chase Checking Account #XXXXXX8010;
- b) JP Morgan Chase Bank, \$100,000.00 Cashier's Check #XXXXXX5545 attributable to five cashier's checks;
- c) Smith & Wesson SD9VE 9mm Pistol with Magazine and Ammunition;
- d) Smith & Wesson M&P9 9mm Pistol with Magazine and Ammunition;
- e) Taurus PT-709 9mm Pistol with Magazine and Ammunition;

- f) Del-Ton Inc. DTI-15 5.56mm Rifle with Magazine and Amunition; and
- g) Assorted Magazines and Ammunition

(*Id.* at PageID.31-32).

In his Rule 11, defendant agreed to the entry of one or more orders of forfeiture incorporating forfeiture of the Subject Property including the Court's prompt entry of a Preliminary Order of Forfeiture, following the defendant's guilty plea, upon application by the United States, at, or any time before, his sentencing in this case, as mandated by Federal Rule of Criminal Procedure 32.2. *Id.* at PageID.31. The defendant agreed to sign such an order, indicating he consents to its entry if requested to do so by the government. *Id.* at PageID.31-32.

In his Rule 11 defendant acknowledged that he understands that the forfeiture of assets is part of the sentence that may be imposed in this case and waived any failure by the Court to advise him of this, pursuant to Fed. R. Crim. P. 11(b)(1)(J), or otherwise, at the time of his guilty plea is accepted. *Id.* at PageID.33.

In entering into his Rule 11 with respect to forfeiture, the defendant knowingly, voluntarily, and intelligently waived any Double Jeopardy challenge, or any other challenge to the above-described forfeiture based

on the Excessive Fines Clause of the Eighth Amendment to the United States Constitution. *Id.* at PageID.32-33.

Based on the defendant's guilty plea and Rule 11, this Stipulation, and other information in the record, and pursuant to 21 U.S.C. § 853 and Federal Rule of Criminal Procedure 32.2, **IT IS HEREBY ORDERED THAT:**

1. The defendant LeMarke Gates's interest in the following property:
 - a. \$7,511.21 in funds seized from JP Morgan Chase Checking Account #XXXXXX8010;
 - b. JP Morgan Chase Bank, \$100,000.00 Cashier's Check #XXXXXX5545 attributable to five cashier's checks;
 - c. Smith & Wesson SD9VE 9mm Pistol, S/N: FYU5930;
 - d. One (1) 9mm Magazine;
 - e. Thirteen (13) Rounds of Ammunition;
 - f. Smith & Wesson M&P9 9mm Pistol, S/N: DVE1647;
 - g. One 9mm Magazine;
 - h. Seven (7) Rounds of 9mm Ammunition;
 - i. Taurus PT-709 9mm Pistol, S/N: TDT03034;
 - j. One (1) 9mm Magazine;
 - k. Seven (7) Rounds of 9mm Ammunition;
 - l. Del-Ton Inc. DTI-15 5.56mm Rifle, S/N:DTI-S170069; and
 - m. Assorted Magazines and Ammunition("Subject Property").

IS HEREBY FORFEITED to the United States of America pursuant

to 21 U.S.C. § 853, and Federal Rule of Criminal Procedure 32.2. Further, any right, title or interest of the defendant and his successors and assigns in the Subject Property is hereby and forever **EXTINGUISHED**.

2. Upon entry of this order, the United States shall publish on www.forfeiture.gov, notice of this preliminary forfeiture order and of its intent to dispose of the Subject Property in such manner as the Attorney General may direct, pursuant to 21 U.S.C. § 853(n). Said notice shall direct that any person, other than the defendant, asserting a legal interest in the Subject Currency may file a petition with the Court within thirty (30) days of the final publication of notice or of receipt of actual notice, whichever is earlier. The petition shall be for a hearing before the Court alone, without a jury and in accordance with 21 U.S.C. § 853(n), to adjudicate the validity of the petitioner's alleged interest in the Subject Property. The petition must identify petitioner's alleged right, title, or interest in the Subject Property, the time and circumstances of the petitioner's acquisition of the right, title, or interest in the Subject Property, any additional facts supporting the petitioner's claim, and the relief sought. The

United States may also, to the extent practicable, provide direct written notice to any person or entity known to have an alleged interest in the Subject Property.

3. If no third party files a timely claim, this Order shall become the Final Order of Forfeiture, as provided by Rule 32.2(c)(2).
4. The Court shall retain jurisdiction to enforce this Order, and to amend it as necessary, pursuant to Rule 32.2.

Agreed as to form and substance:

DAWN N. ISON
United States Attorney

s/Michael El-Zein
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s/ Steven Fishman (see attached page)
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Sfish66@yahoo.com

Dated: July 11, 2022

Dated: July 11, 2022

IT IS SO ORDERED.

Dated: July 12, 2022

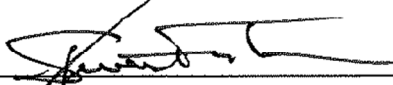
s/George Caram Steeh
Hon. George Caram Steeh
United States District Judge

Agreed as to form and substance:

DAWN N. ISON
United States Attorney

s/Michael El-Zein
Michael El-Zein (P79182)
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Dated: July 11, 2022


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Dated: July 11, 2022